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November 4, 2022

Hon. Gregory H. Woods  
WoodsNYSDChambers@nysd.uscourts.gov  
United States Courthouse  
500 Pearl St.  
New York, NY 10017-1312

Re: Case No. 1:22-cv-9409-GHW First Amended Complaint (ECF No. 30) – Legal  
Blackline

Honorable Judge Woods,

In compliance with Your Honor’s Individual Rules of Practice in Civil Cases Rule 3(D), this letter accompanies Plaintiff’s First Amended Complaint (ECF No. 30), which was filed pursuant to Federal Rule of Civil Procedure 15(a)<sup>1</sup> in the above-referenced case earlier today. Exhibit 1 to this letter is a legal blackline showing the changes from Plaintiff’s November 2, 2022 Complaint (ECF No. 1) (the “Complaint”) to Plaintiff’s First Amended Complaint dated November 4, 2022 (ECF No. 30) (the “First Amended Complaint”).

Exhibit 1 reflects changes to made to the opening caption and paragraphs 16, 24, and 28 of the Complaint. The attached reflects all changes made to the Complaint in the First Amended Complaint. As required by Your Honor’s Individual Rules of Practice in Civil Cases Rule 1(A), this letter is being filed electronically via ECF. Please let us know if you have any questions or require additional materials and we will promptly respond.

Sincerely,

BENESCH, FRIEDLANDER,  
COPLAN & ARONOFF LLP

/s/ Matthew J. Langley  
Matthew J. Langley

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<sup>1</sup> Pursuant to Federal Rule of Civil Procedure 15(a)(1), a party may file an amended pleading, without consent of the opposing party or leave of court, within 21 days of its service, or within 21 days after the service of a responsive pleading or Rule 12(b), (e), or (f) motion. Courts have found that although technically outside of the language of Rule 15(a)(1), amending a complaint without seeking leave prior to service is also permissible. *See Daley v. Town of Orchard Park*, No. 1:16-CV-00325 EAW, 2017 WL 417248, at \*4 (W.D.N.Y. Jan. 30, 2017); *Hardie v. City of Albany*, No. 118CV470GLSCFH, 2018 WL 6510818, at \*1 (N.D.N.Y. Nov. 9, 2018), *report and recommendation adopted*, No. 118CV470GLSCFH, 2018 WL 6506071 (N.D.N.Y. Dec. 11, 2018) (“Here . . . because plaintiff’s complaint has not yet been served upon defendants, the motion to amend is not necessary.”).